

OFFICE OF THE GENERAL COUNSEL  
Division of Operations Management

MEMORANDUM OM 06-42

February 15, 2006

To: All Regional Directors, Officers-in-Charge  
and Resident Officers

From: Richard A. Siegel, Associate General Counsel

Subject: Regional Office Procedures for Handling Pending Section 8(b)(4)(ii)(B)  
Charges Involving Union "Bannering" of Neutral Persons and the Display  
Of Inflatable Rats

In Memoranda OM 02-104, dated September 20, 2002, and OM 05-14, dated November 29, 2004, Regional Offices were given instructions concerning how to handle Section 8(b)(4)(ii)(B) charges that allege bannering within the parameters of Carpenters Local 1506 (AGC San Diego Chapter, Inc.), Case 21-CC-3307, Significant Appeals Minute dated August 22, 2002.

Pursuant to OM 05-14, Regional Offices were authorized to dismiss any charge that does not have arguable merit and, with respect to any arguably meritorious charge, to consult with the Injunction Litigation Branch on whether to hold the case in abeyance until the Board decides certain lead cases now pending before it.

Our experience pursuant to OM 05-14 has evidenced a number of close cases that do not easily lend themselves to telephonic consultations between the Region and Washington. Thus, some difficulty has been present in cases involving a union's use of inflated rats at neutral locations. Accordingly, to facilitate consideration of these cases and to assure consistency nationwide, Regional Offices should submit to the Division of Advice all cases involving union bannering or the display of an inflated rat.<sup>1</sup>

To facilitate prompt review by the Division of Advice, the Regions may either (1) prepare a traditional Advice submission and enclose the Regional Office File, or (2) submit a short recommendation memorandum together with the Regional Office decisional document (FIR, Agenda Minute or Outline) and copies of photographs and maps showing the alleged unlawful conduct. In its submission or decisional document, the Regional Office should describe any evidence of the following:

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<sup>1</sup> If a charge alleges that the display of other inflated objects or the use of street theater violates Section 8(b)(4)(i) or (ii)(B) under the extant "bannering" theories, that charge should also be submitted.

- Location of the banner/rat, including distance from the neutral's entrances
- Language on the banner, and language, if any, on or near the rat
- Whether union agents are present, and if so, where in relation to banner/rat
- Whether bannering or rats are accompanied by handbilling
- If handbilling is being conducted concurrently, language on the handbill and location, and identity of distributors
- Other access/entrance to the neutral facility where no banner is present
- Whether banner/rat follows lawful or unlawful picketing, and duration of any hiatus between them
- Whether bannering/rat is continuing to date
- Duration and time of day banner/rat is displayed in relation to when neutral employees, suppliers, or customers are present
- Whether banner/rat is having any impact on neutrals, and if so, nature of the impact
- Any other evidence indicating that the banner/rat is confrontational, e.g., accompanying threats, blocking, patrolling, noise, size of the banner/rat

If you have any questions regarding this memorandum, please contact the Division of Advice.

/s/  
R.A.S.

cc: NLRBU  
Release to Public

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